**FARAD CONTINUATION SHEET.**

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**NAGPUR BENCH : NAGPUR.**

**WRIT PETITION NO.245/2005**

| Office Notes, office Memoranda of Coram appearances, Court's orders or directions and Registrar's order. | Court's or Judge's order |
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**CORAM**: **B.P. DHARMADHIKARI, J.**
**DATED** : **27.02.2006.**

1. Heard Advocate Shri Kidilay for petitioner and Advocate Mrs. Anjali Joshi for respondent.

2. The contention of learned Counsel for petitioner is that there was no evidence before respondent-Authority to come to the conclusion that the difference of minimum wages has not been paid to employees by the petitioner. He further contends that no witness was examined, as such the statement made by petitioner that amount is already paid ought to have

been accepted. He further contends that amount of compensation awarded at five times is excessive and in support he has placed reliance upon the judgment of the Hon'ble Apex Court reported at 2002– II-LLJ, 205 in between Prerna Sahygo...Versus...Authority under Minimum Wages Act and Others.

3. Learned Counsel for respondent on the other hand points out that petitioner did not approach the Authority with clean hands and has made contradictory statement. She contends that the workers have stated that they did not receive minimum wages and accordingly chart was prepared and this liability was accepted by petitioner. She invites attention to reply submitted by petitioner in this respect on 19.3.2003 and also to his contention before the Authority while arguing the matter.

4. Perusal of reply filed by petitioner before the Authority on 19.3.2003 reveals that the petitioner accepted his liability to pay the amount of difference

and declared that said amount will be paid in presence of respondent. However, at the time of consideration of matter by the Authority, he stated that amount was already paid on 18.2.2003. If the amount was already paid on 18.2.2003, there was no question of petitioner's making promise to pay amount of difference on 19.3.2003 in his reply. In this background, the appreciation of material by respondent cannot be treated either as perverse or erroneous.

5. The Act permits the Authority to award compensation to the extent of ten times of the amount of such difference. Here the respondent has awarded only five times of the amount of difference as compensation. The Hon'ble Apex Court in the judgment (Supra) has found that payment of eight times of wages as compensation was excessive and it was reduced to the amount of wages already paid. However, in the circumstances I find that there is no scope for exercise of such discretion. There is no perversity in the

approach of respondent to the issue. No case is therefore made out for interference in the writ jurisdiction. Writ petition is dismissed. No costs.

JUDGE

ssw